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Writer's Direct Access
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June 28, 2019

Via ECFS

Marlene J. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

**Re: Commonwealth Edison Company's Motion to Hold Proceedings in
Abeyance (Proceeding Number 19-169, 19-170; Bureau ID Number EB-
19-MD-004, EB-19-MD-005)**

Ms. Dortch:

Please find attached Commonwealth Edison Company's Motion to Hold the Proceedings in Abeyance in Proceeding Number 19-169, 19-170; Bureau ID Number EB-19-MD-004, EB-19-MD-005.

Sincerely,



Timothy A. Doughty
Attorney for Commonwealth Edison Company

Enclosures

cc: Lisa Saks, Enforcement Bureau
Adam Suppes, Enforcement Bureau
Anthony DeLaurentis, Enforcement Bureau
Rosemary McEnery, Enforcement Bureau

)	
)	
Crown Castle Fiber LLC,)	
<i>Complainant,</i>)	
)	Proceeding Number 19-169
)	19-170
v.)	Bureau ID Number EB-19-MD-004
)	EB-19-MD-005
Commonwealth Edison Company,)	
<i>Defendant</i>)	
)	

Pursuant to Section 1.729 of the Commission’s rules,¹ Commonwealth Edison Company (“ComEd”) respectfully requests that the Federal Communications Commission (“FCC” or “Commission”) hold in abeyance the Pole Attachment Complaints (“Complaints”) filed on June 19, 2019, by Crown Castle Fiber LLC (“Crown Castle”) in the above-captioned proceedings until it has resolved the jurisdictional issues raised in ComEd’s Motion to Dismiss, filed concurrently with the instant motion. In support, ComEd states as follows:

There is no need for Enforcement Bureau Staff to compile a record in these proceedings because dismissal is warranted on the face of the Crown Castle Complaints. As explained in

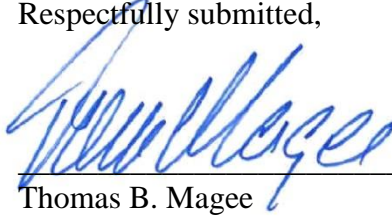
² *Rules Consolidation Order*, 33 FCC Rcd 7178, 7185, at n.45.

ComEd's Motion to Dismiss, ComEd seeks dismissal of these Complaints based on the threshold jurisdictional issue whether the Illinois Commerce Commission ("ICC"), not the Commission, has jurisdiction to resolve these Complaints. As explained in the Motion to Dismiss, the issue whether to dismiss pole attachment complaints on this basis is specifically addressed in Section 1.1405 of the Rules. And as explained in ComEd's Motion to Dismiss, the ICC has jurisdiction and not the Commission because: (1) the ICC's certification was effectively made; (2) the FCC's list of certified states affirms that the FCC has no jurisdiction in Illinois; (3) Section 1.1405 of the Commission's rules requires that Illinois's certification be "conclusive proof" the Commission lacks jurisdiction; and (4) Congress intended that Illinois' certification that it regulates pole attachments has the effect of occupying the entire field of pole attachment regulation.

The public interest would be served by holding these proceedings in abeyance because the parties and the Commission would not be forced to expend valuable resources in a proceeding that very likely will eventually be dismissed.

ComEd therefore respectfully requests that the Commission hold these proceedings in abeyance until it resolves this threshold jurisdiction issue raised in ComEd's Motion to Dismiss.

Respectfully submitted,



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June 28, 2019

CERTIFICATE OF SERVICE

I, Timothy A. Doughty, hereby certify that on this 28th day of June 2019, a true and authorized copy of Commonwealth Edison Company's Motion to Hold the Proceedings in Abeyance was served on the parties listed below via electronic mail and was filed with the Commission via ECFS.

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